

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**In re Biozoom, Inc. Securities Litigation**

)  
)  
)  
)  
)  
)  
)  
)  
)  
)

**Case No.: 1:14-cv-01087**

**Judge James S. Gwin**

**NOTICE OF INTENT TO FILE  
OPPOSITION TO PLAINTIFFS'  
MOTION FOR LEAVE TO AMEND**

\_\_\_\_\_

The Defendants dismissed by this Court's February 26, 2015 Order (Dkt. 127) hereby give notice of their intent to oppose Plaintiffs' Motion for Leave to file a Third Amended Complaint (Dkt. 129).<sup>1</sup> In the face of this Court's decision dismissing each of Plaintiffs' state law claims, and Plaintiffs' Section 12(a)(1) claim against each of the Later-Sued Defendants, Plaintiffs now purportedly seek leave to amend, nearly five months after the deadline set by the Court for amending their complaint (Dkt. 73-1), solely to add allegations with respect to their Section 12(a)(1) claim against defendants Citigroup Global Markets, Inc., Automated Trading Desk Financial Services LLC, and UBS Securities LLC, in a proposed Third Amended Complaint (the "TAC"). The TAC also continues to assert, however, the same additional claims against all defendants that this Court previously dismissed, notwithstanding Plaintiffs'

\_\_\_\_\_

<sup>1</sup> The defendants dismissed in the Court's Order were, Citigroup Global Markets, Inc., Automated Trading Desk Financial Services LLC, Citadel Securities LLC, G1 Execution Services, LLC, E-Trade Capital Markets LLC, BTIG, LLC, Canaccord Genuity Inc., Collins Stewart Inc., Pershing LLC, Maxim Group LLC, UBS Securities, LLC and vFinance Investments, Inc. (the "Later-Sued Defendants").

concession that their proposed amendment does not cure the pleading deficiencies for those other claims.<sup>2</sup>

Accordingly, the Later-Sued Defendants hereby give notice of their intent to file a single omnibus brief in opposition to Plaintiffs' Motion within the 14-day time frame and 15 page limit set forth in Local Rule 7.1 for oppositions to non-dispositive motions, subject to any further or different direction from the Court regarding briefing.

Respectfully submitted,

/s/ William J. O'Neill

William J. O'Neill (0029936)  
woneill@mcdonaldhopkins.com  
Jennifer D. Armstrong (0081090)  
jarmstrong@mcdonaldhopkins.com  
MCDONALD HOPKINS LLC  
600 Superior Ave. East, Suite 2100  
Cleveland, Ohio 44114  
Phone: (216) 348-5400  
Fax: (216) 348-5474  
*Attorneys for Defendant*  
*Citadel Securities, LLC*

*Of Counsel*

Donald A. Tarkington (*pro hac vice*)  
dtarkington@novackmacey.com  
Brian E. Cohen (*pro hac vice*)  
bcohen@novackmacey.com  
Matthew J. Singer (*pro hac vice*)  
msinger@novackmacey.com  
NOVACK AND MACEY LLP  
100 North Riverside Plaza  
Chicago, Illinois 60606  
Phone: (312) 419-6900  
*Attorneys for Defendant*  
*Citadel Securities, LLC*

/s/ Brian J. Lamb

Brian J. Lamb (0055447)  
Brian.Lamb@thompsonhine.com  
Thomas M. Ritzert (0085370)  
Thomas.Ritzert@thompsonhine.com  
THOMPSON HINE LLP  
3900 Key Center  
127 Public Square  
Cleveland, Ohio 44114-1291  
Phone: (216) 566-5500  
Fax: (216) 566-5800  
*Attorneys for Defendants, Citigroup Global*  
*Markets Inc., Automated Trading Desk*  
*Financial Services, LLC, Canaccord Genuity*  
*Inc., Collins Stewart Inc., UBS Securities LLC*  
*and vFinance Investments, Inc.*

*Of Counsel*

Richard De Palma (*pro hac vice*)  
richard.depalma@thompsonhine.com  
Barry M. Kazan (*pro hac vice*)  
barry.kazan@thompsonhine.com  
THOMPSON HINE LLP  
335 Madison Avenue, 12th Floor  
New York, NY 10017  
Phone: (212) 908-3921

---

<sup>2</sup> Plaintiffs represent in their memorandum in support of the motion that, if granted, their request would bring three of the previously dismissed defendants back, at least partly, into this action, namely, Citigroup Global Markets Inc., Automated Trading Desk Financial Services, LLC, and UBS Securities LLC. (Dkt. 129-1 at 5, 8-9.) Despite this representation, the proposed Third Amended Complaint continues to list causes of action directed against each of the defendants dismissed from the action in the Court's February 26, 2015, and restates all of the previously dismissed state-law claims. (Dkt. 129-2.)

/s/ David H. Wallace

David H. Wallace (0037210)  
dwallace@taftlaw.com  
Michael J. Zbiegien, Jr. (0078352)  
mzbiegien@taftlaw.com  
TAFT STETTINIUS & HOLLISTER LLP  
200 Public Square, Suite 3500  
Cleveland, OH 44114-2302  
Phone: (216) 241-2838  
Fax: (216) 241-3707

Russell S. Sayre (*pro hac vice*)  
sayre@taftlaw.com  
Aaron M. Herzig (0079371)  
aherzig@taftlaw.com  
TAFT STETTINIUS & HOLLISTER LLP  
425 Walnut Street, Suite 1800  
Cincinnati, OH 45202  
Phone: (513) 381-2838  
Fax: (513) 381-0205  
*Attorneys for Defendants Pershing LLC and  
Maxim Group LLC*

*Of Counsel*

Ian H. Hummel (*pro hac vice*)  
ihummel@maximgrp.com  
Associate General Counsel  
MAXIM GROUP LLC  
405 Lexington Ave.  
New York, NY 10174  
Phone: (212) 895-3889  
Fax: (212) 895-3860  
*Attorney for Defendant Maxim Group LLC*

/s/ Brett M. Doran

Brett M. Doran (*pro hac vice*)  
doranb@gtlaw.com  
Steven M. Malina (*pro hac vice*)  
malinas@gtlaw.com  
GREENBERG TRAURIG, LLP  
77 West Wacker Drive, Suite 3100  
Chicago, IL 60601  
Phone: (312) 45-8400  
Fax: (312) 456-8435  
Kurt A. Kappes (*pro hac vice*)

Fax: (212) 344-6101  
*Attorneys for vFinance Investments, Inc.*

*Of Counsel*

Adam S. Hakki (*pro hac vice*)  
Adam.Hakki@Shearman.com  
Agnès Dunogué (*pro hac vice*)  
Agnes.Dunogue@Shearman.com  
Elizabeth J. Stewart (*pro hac vice*)  
Elizabeth.Stewart@Shearman.com  
SHEARMAN & STERLING LLP  
599 Lexington Avenue  
New York, NY 10022-6069  
Phone: (212) 848-4000  
Fax: (212) 848-7179  
*Attorneys for Defendants Citigroup Global  
Markets Inc. and Automated Trading Desk  
Financial Services, LLC*

*Of Counsel*

Anthony S. Fiotto (*pro hac vice*)  
afiotto@goodwinprocter.com  
GOODWIN PROCTER LLP  
Exchange Place  
53 State Street  
Boston, MA 02109  
Phone: (617) 570-1324  
Fax: (617) 523-1231

William J. Harrington (*pro hac vice*)  
wharrington@goodwinprocter.com  
GOODWIN PROCTER LLP  
The New York Times Building  
620 Eighth Avenue  
New York, NY 10018  
Phone: (212) 459-7140  
Fax: (212) 355-3333  
*Attorneys for Defendants Canaccord Genuity  
Inc. and Collins Stewart Inc.*

*Of Counsel*

Fraser L. Hunter, Jr. (*pro hac vice*)  
fraser.hunter@wilmerhale.com  
David Sapir Lesser (*pro hac vice*)

kappesk@gtlaw.com  
GREENBERG TRAURIG, LLP  
1201 K. Street, Suite 1100  
Sacramento, CA 95814  
Phone: (916) 442-1111  
Fax: (916) 448-1709  
*Attorneys for GI Execution Services, LLC and  
E-Trade Capital Markets LLC*

david.lesser@wilmerhale.com  
Jamie S. Dycus (*pro hac vice*)  
jamie.dycus@wilmerhale.com  
WILMER CUTLER PICKERING  
HALE AND DORR LLP  
7 World Trade Center  
250 Greenwich Street  
New York, New York 10007  
Phone: (212) 230-8800  
Fax: (212) 230-8888  
*Attorneys for Defendant UBS Securities LLC*

/s/ Hugh E. McKay  
Hugh E. McKay (0023107)  
hmckay@porterwright.com  
Tracey L. Turnbull (0066958)  
tturnbull@porterwright.com  
Tracy S. Francis (0080879)  
tfrancis@porterwright.com  
PORTER WRIGHT MORRIS & ARTHUR  
LLP  
950 Main Avenue, Suite 500  
Cleveland, OH 44113  
Phone: (216) 443-9000  
Fax: (216) 443-9011  
*Attorneys for BTIG, LLC*

*Of Counsel*

Kenneth G. Hausman (*pro hac vice*)  
kenneth.hausman@aporter.com  
Jonathan W. Hughes (*pro hac vice*)  
jonathan.hughes@aporter.com  
Jeremy Kamras (*pro hac vice*)  
jeremy.kamras@aporter.com  
ARNOLD & PORTER LLP  
Three Embarcadero Center, 10th Floor  
San Francisco, California 94111-4024  
Phone: (415) 471-3100  
Fax: (415) 471-3400  
*Attorneys for BTIG, LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that on March 10, 2015, a copy of the foregoing was filed electronically with the court's Case management / Electronic Case Files (CM/ECF) docketing system. Notice of this filing will be sent by operation of the CM/ECF system.

/s/ Brian J. Lamb

Brian J. Lamb (00554447)

Brian.Lamb@thompsonhine.com

Thomas M. Ritzert (0085370)

Thomas.Ritzert@thompsonhine.com

THOMPSON HINE LP

3900 Key Center

127 Public Square

Cleveland, OH 44114-1291

Phone: (216) 566-5500

Fax: (216) 566-5800

*Attorneys for Defendants, Citigroup Global  
Markets Inc., Automated Trading Desk  
Financial Services, LLC, Canaccord  
Genuity Inc., Collins Stewart Inc., UBS  
Securities LLC, and vFinance Investments,  
Inc.*